

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF CALIFORNIA

UNITED STATES OF AMERICA,)	
)	2:02-cr-00418-GEB-GGH
Plaintiff,)	
)	
v.)	<u>ORDER DENYING PLAINTIFF'S</u>
)	<u>REQUEST TO APPEAL IN FORMA</u>
FERNANDO LOPEZ-CUEVAS,)	<u>PAUPERIS</u>
)	
Defendant.)	
_____)	

Defendant, a federal prisoner proceeding pro se, filed a Notice of Appeal of this Court's November 22, 2011 Order, which denied Defendant's motion under 28 U.S.C. § 2255 to vacate, correct or set aside his sentence. On February 3, 2012, Defendant filed a request to proceed on appeal *in forma pauperis*. (ECF No. 219.)

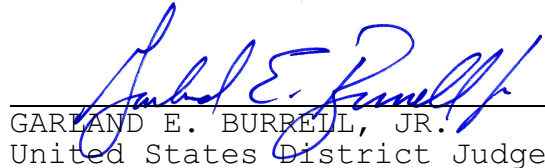
A party may seek leave from the district court to proceed *in forma pauperis* on appeal under Federal Rule of Appellate Procedure 24 and 28 U.S.C. § 1915, when he or she is financially unable to pay the costs associated with the appeal. The requesting party must file a motion in the district court, accompanied by an affidavit that: "(A) shows in the detail prescribed by Form 4 of the Appendix of Forms the party's inability to pay or to give security for fees and costs; (B) claims an entitlement to redress; and (C) states the issues that the party intends to present on appeal." Fed. R. App. P. 24(a)(1).

Defendant filed an affidavit in support of his request to appeal *in forma pauperis*; however, it is insufficient. Although

1 Defendant declares he is unemployed and has minimal funds, the certified
2 copy of Defendant's institutional account which was filed in support of
3 his request indicates he currently has an account balance of \$1,803.87.
4 Therefore, his inability to pay is unclear. Further, Defendant has not
5 stated the issues he intends to present on appeal. See Ontiveros v.
6 Cate, No. 09CV1503 JAH (CAB), 2010 WL 4316942, at *1 (S.D. Cal. Oct. 27,
7 2010) (denying request to proceed in forma pauperis when "petitioner
8 fail[ed] to detail the issues he intend[ed] to present on appeal as
9 required").

10 For the stated reasons, Defendant's request to appeal *in forma*
11 *pauperis* is denied.

12 Dated: May 8, 2012

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15 GARLAND E. BURRELL, JR.
16 United States District Judge
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